

REMARKS

In response to the Office Action dated February 11, 2008, Applicant respectfully requests reconsideration based on the above amendments and the following remarks.

Applicant respectfully submits that the claims as presented are in condition for allowance.

Claims 1-5, 8-15 and 19-21 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to meet the written description requirement. The claims have been amended to clarify that the first, second and third data sets are used to form the master data set. This is consistent with the description in paragraphs [0026] and [0027] where data sets 40, 42 and 44 are used to derive the master data set 48. The Examiner appears focused on Figure 3 where a first and second data set are used to create a third data set. This description is simply a generic example of using two data sets. The third data set in Figure 3 and the master data 48 in Figure 2 are the same type of data set. The original specification clearly teaches using three data sets 40 (first), 42 (second), and 44 (third) to establish a master data set 48. The fact that Figure 3 only references a first and second data set used to form a third does not alter the fact that the specification also teaches using a first, second and third data set to form a master data set. Applicant has used the word “third” in two different contexts, but this usage does not support a rejection of the claims under 35 U.S.C. § 112, first paragraph and the rejection should be withdrawn.

Claims 1-5, 8-15 and 19-21 were rejected under 35 U.S.C. § 103 as being unpatentable over Herz. This rejection is traversed for the following reasons.

Claim 1 as amended recites, *inter alia*, “the master data set including a plurality of potential interest elements based on a number of matches between the first, second and third attributes; and ranking the potential interest elements in the master data set based on the number of matches between the first, second and third attributes.” Support for these features is found in at least paragraph [0027] and Figure 3 of Applicant’s specification. Herz fails to teach or suggest these features. Herz teaches ranking items based on similarity to a user profile. For example, Herz teaches ranking hyperlinks in accordance with a relative priority to a user profile (column 48, lines 12-15). This teaching by Herz, however, is directed to ranking target profiles as compared to a user’s target profiles. Claim 1 is directed to formation of the master set of data for that user, not to evaluating new items for a match with

a user. Herz does not teach "ranking the potential interest elements in the master data set based on the number of matches between the first, second and third attributes."

For at least the above reasons, claim 1 is patentable over Herz. Claims 2-5, 8 and 9 depend from claim 1 and are patentable over Herz for at least the reasons advanced with reference to claim 1.

Claim 10 recites features similar to those discussed above with reference to claim 1 and is patentable over Herz for at least the reasons advanced with reference to claim 1. Claims 11-15, 19 and 20 depend from claim 10 and are patentable over Herz for at least the reasons advanced with reference to claim 1.

Claim 21 recites features similar to those discussed above with reference to claim 1 and is patentable over Herz for at least the reasons advanced with reference to claim 1.

Claim 8 was rejected under 35 U.S.C. § 103 as being unpatentable over Herz in view of Lammerhuber. This rejection is traversed for the following reasons. Lammerhuber was relied upon for disclosing generation of a data set using a cell phone, but fails to cure the deficiencies of Herz discussed above with reference to claim 1. Claim 8 depends from claim 1 and is patentable over Herz in view of Lammerhuber for at least the reasons advanced with reference to claim 1.

In view of the foregoing remarks and amendments, Applicant submits that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130.

Respectfully submitted,

By: 

David A. Fox
Registration No. 38,807
CANTOR COLBURN LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No. 36192

Date: May 8, 2008